

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JAMES LEE BAKER,

Plaintiff,

vs.

WASHINGTON STATE  
PENITENTIARY, SUPERINTENDENT  
SINCLAIR, MARK A. KYCZA, DOC  
MEDICAL DIRECTOR, HEALTH  
CARE MANAGER P. RIMA, AND  
DR. JUGUILON,

Defendants.

NO. CV-08-5084-EFS

**ORDER DISMISSING COMPLAINT**

**1915 (g)**

Plaintiff James Lee Baker, formerly a prisoner at the Washington State Penitentiary and now residing in Newman Lake, Washington, is proceeding *pro se* and *in forma pauperis*. By Order filed January 16, 2009, the Court advised Mr. Baker of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty (60) days. Specifically, the Court noted Plaintiff failed to state claims against numerous Defendants; the Washington State Penitentiary is not a person amenable to suit under 42 U.S.C. § 1983; and Plaintiff's allegations against Dr. Juguilon regarding adjustments to his psychiatric medication were insufficient to state an Eighth Amendment violation.

Although granted the opportunity to do so, Plaintiff did not amend

1 his complaint to cure the deficiencies. He has filed nothing further in  
2 this action. Therefore, for the reasons set forth above and in the  
3 Court's prior Order (Ct. Rec. 11), **IT IS ORDERED** the complaint is  
4 **DISMISSED with prejudice** for failure to state a claim upon which relief  
5 may be granted. 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

6 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner  
7 who brings three or more civil actions or appeals which are dismissed as  
8 frivolous or for failure to state a claim will be precluded from  
9 bringing any other civil action or appeal *in forma pauperis* "unless the  
10 prisoner is under imminent danger of serious physical injury." 28  
11 U.S.C. § 1915(g). Plaintiff is advised to read the new statutory  
12 provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's  
13 complaint may count as one of the three dismissals allowed by 28 U.S.C.  
14 § 1915(g) and may adversely affect his ability to file future claims.

15 **IT IS SO ORDERED.** The District Court Executive is directed to  
16 enter this Order, forward a copy to Plaintiff at his last known address,  
17 enter judgment, and close the file. The District Court Executive is  
18 further directed to forward a copy of this Order to the Office of the  
19 Attorney General of Washington, Criminal Justice Division.

20 **DATED** this 30th day of March 2009.

21  
22 s/Edward F. Shea  
23 EDWARD F. SHEA  
24 United States District Judge

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